



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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OFFICE OF  
ENVIRONMENTAL CLEANUP

April 13, 2012

**SUBJECT:** \$2 Million Exemption Amendment to the Action Memorandum for the Avery Landing Site located near Avery, Shoshone County, Idaho

**FROM:** Earl Liverman, Federal On-Scene Coordinator *Ch D L L FOR*  
Emergency Prevention and Preparedness Unit

**THRU:** Chris D. Field, Manager *Ch D L L*  
Emergency Management Program

**TO:** Daniel D. Opalski, Director  
Office of Environmental Cleanup

**I. PURPOSE**

The purpose of this Action Memorandum Amendment is to request and document approval of an exemption to the \$2,000,000 statutory limit for funding of the removal action at the Avery Landing Site. The Action Memorandum was approved and issued by the United States Environmental Protection Agency on July 5, 2011. It is anticipated that the removal action will be performed at the Site in 2012.

The updated estimated total removal project ceiling for EPA funding is \$3,162,500.

**II. SITE CONDITIONS AND BACKGROUND**

There are four (4) ownership interests associated with the Site, including those of the United States, Larry and Ethel Benteik, Potlatch Land and Lumber, LLC, and the Idaho Department of Lands. The property of the United States at the Site is administered by the Federal Highway Administration (FHWA).

Following a protracted but unsuccessful attempt to reach an accord by which one party would conduct cleanup work for the entire Site, and due to the need to conduct the removal action in 2012, EPA is currently planning to conduct part of the removal action, and to have PLL perform the other part of the removal action under EPA oversight. The cleanup work to be undertaken by EPA will likely focus on properties of the United States and Benteiks, and also to some extent possibly a portion of the property of IDL. EPA presently foresees a need for it to initially fund the work necessary for the property of the Benteiks and potentially some of the property of IDL.

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The CERCLIS ID No. is IDD984666313 and the Site ID No. is 10FT.

**A. Site Description**

Refer to Action Memorandum.

**B. Other Actions to Date**

**1. Previous actions**

Refer to Action Memorandum.

**2. Current actions**

Site-wide project coordination, management, planning, and design activities are underway in anticipation of cleanup work beginning on or about May 15, 2012.

**C. State and Local Authorities Roles**

Refer to Action Memorandum.

**III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT,  
AND STATUTORY AND REGULATORY AUTHORITIES**

Refer to Action Memorandum.

**IV. ENDANGERMENT DETERMINATION**

Refer to Action Memorandum.

**V. EXEMPTION FROM STATUTORY LIMITS**

Consistent with Section 104(c)(1)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(c)(1)(A), an exemption from the statutory limit of \$2,000,000 is appropriate based on the following criteria:

**A. There is an immediate risk to public health or welfare or the environment**

The commingled mixture of hazardous substances and oil found at the Site present an immediate risk to public health or welfare or the environment. Analytical results for hazardous substances show that volatile organic compounds, semi-volatile organic compounds, carcinogenic and non-carcinogenic polycyclic aromatic hydrocarbons, polychlorinated biphenyls, and metals present in subsurface soil, sediment, surface water, and groundwater exceed applicable federal and/or state guidelines. Nearby seasonal residents, recreationists, commercial or municipal employees, and/or

trespassers could be exposed to the Site contaminants found in subsurface soil and groundwater if engaged in subsurface disturbance activities. Although not open to the public, access to the Site is unrestricted and ingress and egress can be gained from both land and water. There are no physical barriers restricting access or institutional controls such as well drilling prohibitions to minimize the potential for human exposure to Site contamination by limiting land or resource use.

Ecological receptors may be exposed to Site-related contaminants present in Site media, and the Site-related contaminants may cause adverse effects in sensitive receptors. Ecological receptors can become exposed to Site contaminants through direct contact with the contaminants of concern mixed with oil and with water and sediments contaminated by the contaminants of concern mixed with oil; ingestion of the contaminants of concern mixed with oil and water and sediments contaminated by the contaminants of concern mixed with oil; and through the food chain by consuming animals and plants that have accumulated Site-related contamination.

**B. Continued response actions are immediately required to prevent, limit, or mitigate an emergency**

Immediate implementation of the removal action selected in the Action Memorandum is required to prevent, mitigate, or minimize the actual or potential human health or ecological risks posed by the commingled mixture of hazardous substances and oil found at the Site. The commingled mixture is present in subsurface soil and groundwater and is migrating toward and being released to the St. Joe River. The release continues unabated. Additionally, there are no physical barriers such as fences or administrative and/or legal controls that minimize the potential for human exposure to contamination by limiting land use or resource use.

Seasonal weather conditions facilitate the migration and release of Site contaminants. The vertical groundwater fluctuations will affect the movement of contaminants in the vadose zone which can serve as a source of groundwater contamination. Additionally, spring time snow melt, rainfall, or other forms of run-off inducing events will tend to spread the contaminated materials throughout and farther from the Site. In such instances, percolating water may come in contact with Site contaminants and carry dissolved material to the groundwater, as well as cause the continued hydraulic expansion of the contaminated zone and movement of the contaminant plume.

The St. Joe River is used for wildlife habitat, recreation, and drinking water for downstream residents. The segment of the St. Joe River immediately adjacent to the Site that could be impacted by contaminants found at the Site has the following designations: special resource water, domestic water supply, primary contact recreation, cold water communities, and salmonid spawning. The following threatened or endangered species are present in the vicinity of the Site: Canada lynx and Bull trout.

While the presence of oil along could subject the associated waste to cleanup requirements under the Federal Water Pollution Control Act, also known as the Clean Water Act, and the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act, the

commingled nature of the oil and hazardous substances at the Site makes the resulting mixture of contamination subject to CERCLA.

**C. Assistance will not be provided on a timely basis**

There are no known other appropriate federal or state response mechanisms or potentially responsible parties capable of providing the appropriate resources in a prompt manner needed to address the actual or potential human health and ecological risks associated with the hazardous substances mixed with oil.

**VI. SELECTED ACTIONS AND ESTIMATED COSTS**

**A. Selected Actions**

**1. Selected action description**

Refer to Action Memorandum. Of the estimated 49,000 cubic yards of contaminated materials at the Site, approximately 14,000 cubic yards of these materials will be removed from the property of the Bentsiks. It is also anticipated that some amount of contamination may need to be addressed by EPA on a portion of the IDL property.

**2. Contribution to remedial performance**

Refer to Action Memorandum.

**3. Engineering Evaluation/Cost Analysis (EE/CA)**

Refer to Action Memorandum.

**4. Applicable or relevant and appropriate requirements**

Refer to Action Memorandum.

**5. Project Schedule**

The removal action for that portion of the Site to be addressed by EPA is expected to begin on or about mid-May 2012, and to require three to four months to complete.

**B. Estimated Costs**

The Action Memorandum estimated the total project ceiling at \$8,500,000 based on the December 2010 EE/CA. That amount was increased to \$9,770,000 in June 2011 to account for anticipated cost increases associated with having to construct a temporary camp for workers due to the remote location of the Site and a more conservative estimate of potentially-contaminated soil in the western portion of the Site.

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Daniel D. Opalski, Director  
Office of Environmental Cleanup

Effective date of this Decision: \_\_\_\_\_

*4/17/2012*

**XII. ATTACHMENTS**

- Original Action Memorandum
- Confidential Enforcement Addendum



The revised total project ceiling is now estimated to be \$9,330,000 (the current authorized maximum Fund expenditure is, however, only \$3,162,500). This amount is based on finding suitable worker accommodations within the Avery community and PLL's Fall 2012 Supplemental Site Investigation which showed a smaller area of potentially-contaminated soil in the western portion of the Site.

Of the total project ceiling of \$9,330,000, it is expected that EPA will fund \$3,162,500 for the work on properties of the Benciks and IDL under this Amendment. If available, additional funding may be applied to the current total project ceiling to cover unforeseen expenses that may arise during the removal action. However, if additional funding is applied, the total removal action project ceiling will not exceed \$4,000,000.

**VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

Refer to Action Memorandum.

**VIII. OUTSTANDING POLICY ISSUES**

None.

**IX. ENFORCEMENT**

Refer to attached confidential enforcement addendum.

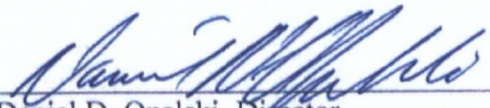
**X. DETERMINATION**

Conditions at the Site meet the criteria for a CERCLA section 104(c) emergency exemption, and I recommend your approval of an exemption from the \$2,000,000 limitation. The total project ceiling if approved will be \$3,162,500, of which an estimated \$2,750,000 will be funded from the FY12 Regional removal allowance.

**XI. APPROVAL/DISAPPROVAL**

By the approval which appears below, EPA selects the removal action for the Site as set forth in the recommendations contained in this Amendment together with the Action Memorandum.

Approve: X

  
\_\_\_\_\_  
Daniel D. Opalski, Director  
Office of Environmental Cleanup  
Disapprove: \_\_\_\_\_







